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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Clifford E. Earixson,) No. Civ. 02-2543-PCT-ROS (VAM)
10 Petitioner,) **ORDER**
11 vs.)
12)
13 Deputy Warden S. Walker, et.)
14 al.,)
15 Respondents.)
16

17 Pending before the Court is Petitioner's renewed "Motion to
18 Amend or Supplement his Original Petition for Writ of Habeas
19 Corpus." (Doc. 63). The Court now denies Petitioner's
20 motion.

21 On May 19, 2005, Petitioner filed a motion to stay the
22 underlying habeas corpus action in order to exhaust several
23 state law claims that were not included in his original
24 petition. (Doc. 53). Petitioner's motion was granted on
25 December 13, 2005. (Doc. 56).

26 On July 3, 2006, Petitioner returned to this Court and moved
27 to file an amended or supplemental petition for writ of habeas
28 corpus. (Doc. 57). Petitioner's motion was denied without
prejudice for failure to comply with Rule 15.1 of the Local

1 Rules of Practice of the United States District Court for the
2 District of Arizona, L.R. Civ. 15.1(a)(1), (2). (Doc. 59).

3 Petitioner filed a second motion to amend or supplement his
4 petition for writ of habeas corpus, together with a copy of
5 his original petition, on August 7, 2006. (Docs. 60, 61).
6 The Court denied Petitioner's renewed motion without
7 prejudice, explaining in detail what Petitioner is required to
8 do in order to file a proper motion to amend. (Doc. 62). The
9 Court granted Petitioner until September 22, 2006, to file a
10 proper motion and to lodge a proper proposed amended pleading.
11 (Id.). The Court advised Petitioner that it would proceed
12 with disposition of the case if no proper motion was filed
13 within the allowable time frame. (Id.). The present motion
14 to amend was received on September 22, 2006. (Doc. 63).

15 Petitioner has again failed to comply with Rule 15.1. As
16 this Court has already explained to Petitioner, Local Rule
17 15.1 sets forth the requirements for filing a motion to amend.
18 The Court has repeatedly advised Petitioner:

19 Local Rule 15.1(a)(1) requires that any motion to amend a
20 pleading, such as a habeas petition, attach "a copy of the
21 proposed amended pleading as an exhibit to the motion,
22 which shall indicate in what respect it differs from the
23 pleading which it amends, by bracketing or striking
24 through the text to be deleted and underlining the text to
25 be added." In addition, Local Rule 15.1(a)(2) directs
26 that petitioner also "lodge with the Clerk of Court an
original of the proposed amended pleading. The original
must not be physically attached or made an exhibit to a
motion to amend ... and must contain the original
signature of the attorney or unrepresented party ..."
27 Finally, the amended pleading "is not to incorporate by
28 reference any part of the preceding pleading."

(Doc. 59 at 1, Doc. 62 at 2). Notwithstanding this
admonition, Petitioner filed a motion to amend which is

1 a narrative statement raising several new claims. Petitioner
2 did not reiterate his original claims or assert his new claims
3 by adding bracketed language to an amended petition. Nor did
4 Petitioner lodge a proposed amended pleading with the Clerk of
5 the Court. Petitioner instead stated, "there will be no
6 striking through or underlining of text in this amended
7 petition, as all claims are 'new' and completely different
8 than the original petition." (Doc. 63 at 2). Therefore,
9 Petitioner has no proposed pleading before the Court, but only
10 a narrative motion to amend. The Court cannot determine
11 Petitioner's intentions or address a nonexistent
12 amended/supplemental petition.

13 Petitioner asks this Court to accept his amended petition
14 despite his failure to comply with the Local Rules on grounds
15 that he is proceeding *pro se*. Although Petitioner correctly
16 observes that motions filed by *pro se* litigants are liberally
17 construed, see e.g., United States v. Seesing, 234 F.3d 456,
18 462 (9th Cir. 2000), *pro se* litigants are nonetheless bound by
19 the rules of procedure. See, e.g., Ghazali v. Moran, 46 F.3d
20 52, 54 (9th Cir. 1995) (dismissal was appropriate where *pro se*
21 litigant failed to comply with local rules); Boyd v. Thompson,
22 147 F.3d 1124, 1126 -27 (9th Cir. 1998) (*pro se* petitioner may
23 be held accountable for failure to timely pursue state
24 remedies); Hughes v. Idaho State Bd. of Corrections, 800 F.2d
25 905, 909 (9th Cir. 1986) (illiteracy does not excuse failure to
26 pursue appropriate remedies).

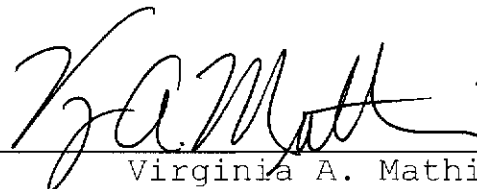
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1 Petitioner has had ample opportunity to file a proper motion
2 to amend or supplement his habeas petition, but has not done
3 so. Additionally, Petitioner was adequately warned that the
4 Court would proceed with the disposition of his case if he
5 failed to comply with the Local Rules by September 22, 2006.
6 Accordingly, Petitioner's motion will be denied with
7 prejudice, and the Court will move forward with the
8 disposition of Petitioner's case.

9 **IT IS THEREFORE ORDERED denying** Petitioner's "Motion to
10 Amend or Supplement his Original Petition for Writ of Habeas
11 Corpus" (Doc. 63) with prejudice.

12 DATED this 4th day of December, 2006.

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17 Virginia A. Mathis
18 United States Magistrate Judge
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